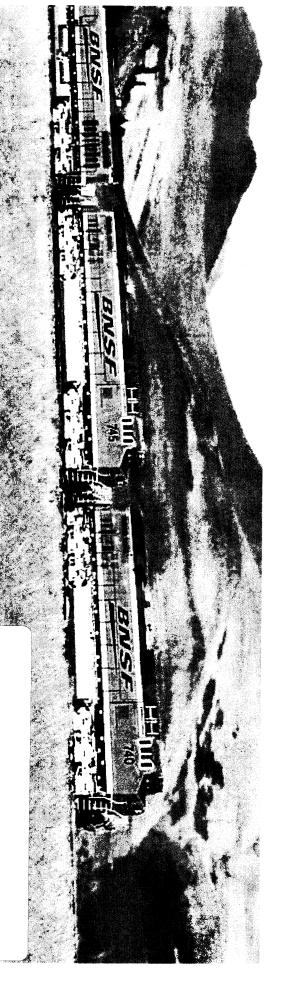
BNSF Railway Company

Montana Taxation of Railroads Judy Cummings

December 9, 2011





REVENUE & TRANSPORATION INTERIM COMMITTEE DECEMBER 8-9, 2011

December 9, Exhibit 12

Legislative History

- Prior to 1997 History of disputes and litigation
- County / School District Budgets
- Short falls
- Uncertainty
- 1997 1998 BNSF and DOR applied the formula on "experimental basis"
- 1999 Legislature codified Railroad Formula (MCA 15-23-205) to provide long term solution



Predictability and Stability

- administration and provide a more stable source of tax Rep. Bob Story sponsored HB 669. At the committee revenue for local taxing jurisdictions hearing, he explained how the bill would improve tax
- DOR stated, "HB 669 provides stability for both government and taxpayers and predictability regarding the tax base and the taxes paid
- "will bring about predictability, which important from the perspective and local government's taxpayers' perspective, as well as from the state perspective...formula is fair and workable and understandable"



Objective

- Three objective verifiable variables
- Income
- Gross Profit
- Investment
- All inputs into Formula are based on public (audited) documents or Third Party information
- R-1 report to the STB
- STB Capitalization Study



Stability

- Formula uses 2 and 5 year averages to moderate decreases and increases to value
- Senator Depratu, formula "will also help level out governments." wave...it helps both the railroads and the local some of the spikes, and make revenue more of a



Flexibility

- Formula contains provision for adjustment for unusual and infrequent material items
- "The department shall take into account extenuating property" (MCA 15-23-205 (6)) circumstances to adjust the assessed value of railroad
- "Extraordinary, unusual, or infrequent events that are considered in the evaluation of operating results" expected to recur frequently and not normally typical or customary business operations, that are not material in nature and of a character different from the
- Events such as "writeoffs, writedowns, and changes in accounting methods or practices"



Section 306

- discriminatory taxes Section 306 of the Federal 4-R Act was enacted to discriminate against interstate railroads by imposing ensure states do not unreasonably burden and
- Since enactment of the MT Railroad Formula there have been no property tax disputes under the 4-R Act
- Formula applies fair increases or decreases to BNSF's and operating results. value based upon objective changes to BNSF's financial



Formula Mechanics

- Start with "Base Value" (Prior year system value)
- Base Value x "Value Change Factor"
- Change Factor is a sum of 3 weighted factors:
- 50% Income (Change in Earnings/Cap Rate)
- 25% Gross Profit Change Factor
- 25% Investment (Year over Year Change)
- Base Value x Value Change Factor = Current Value



Formula Mechanics

- Current Year Value x MT Allocation = MT Taxable Value
- Allocation Factor is the average of 5 ratios:
- MT/System Track Miles
- MT/System Revenue Ton Miles
- MT/System Investment
- MT/System Operating Revenue
- MT/System Car and Locomotive Miles



R Factor

- MCA 15-6-145
- Calculation is required under 4-R Act
- Rate reflects average composite rate applied to all commercial property in the state

RAILWAY

BNSF